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Agenda item 2

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Violations of the rights of human rights defenders in all countries

Note by the secretariat

Addendum

1. Following the circulation of document E/CN.4/Sub.2/1999/4, the Office of the High Commissioner for Human Rights received a note verbale dated 29 July 1999 from the Permanent Mission of Turkey to the United Nations Office at Geneva concerning the case of Mr. Akin Birdal. Since the information pertaining to this case, which had been submitted by the Government of Turkey on several occasions earlier, was not included in that document, the Permanent Mission of Turkey requested the Office of the High Commissioner to transmit the views of the Turkish Government to the Sub-Commission in an addendum to document E/CN.4/Sub.2/1999/4.

2. Pursuant to this request, the information received from the Permanent Mission of Turkey is reproduced in the annex.*

* Reproduced as received, in English only.

Annex

Note on Mr. Akin Birdal

1. A public complaint was lodged against Mr. Akin Birdal on 27 September 1996 at the State Security Court of Ankara, for his speech delivered at the meeting on "Peace and Freedom" in Ankara, on 1 September 1996.

2. The State Security Court of Ankara sentenced Mr. Akin Birdal to one year term imprisonment and a fine of 420.000 Turkish Liras (approximately 1.5 US Dollars) on 21 October 1997, in accordance with article 312/2 of the Turkish Penal Code, on the ground of inciting the public to hatred and discrimination based on race, religion or ethnic origin, without prejudice to his right to appeal.

3. This sentence against Mr. Akin Birdal was appealed, and the 8th Criminal Department of the Court of Appeals annulled it on 11 February 1998.

4. In accordance with the "annulment decision" of the Court of Appeals, the case of Mr. Birdal was reconsidered and the State Security Court of Ankara decided to maintain the validity of its previous sentence, on 28 July 1998.

5. The second sentence of the State Security Court of Ankara was also appealed by the attorney of Mr. Birdal. However the General Board of the Criminal Department of the Court of Appeals, in its second examination of the case, confirmed the sentence of the court of first instance in October 1998.

6. Upon the application of his attorney, the execution of the sentence of Mr. Birdal has been postponed for a period of 3 months, and consequently for another month. According to the criminal procedure, the period of postponement of the execution of any sentence is limited to four months. Therefore, Mr. Birdal has been serving his sentence since 3 June 1999 in the prison of Ankara.

7. Mr. Akin Birdal is in good health. However, due to the assassination attempt directed against him last year, he has problems in his right arm, which requires him to receive physiotherapy and electrotherapy. A medical report prepared by 10 medical doctors at the Numune Hospital in Ankara, after examination of Akin Birdal's health, establishes that "his illness does not pose any fatal obstruction to his serving his sentence, if he is kept in a prison furnished with medical equipment". Nevertheless, it has been established by the decision of the Ministry of Justice that he can receive such treatment during his imprisonment. Currently, he receives physiotherapy treatment by a physiotherapist daily.

8. The prosecution and conviction of Mr. Akin Birdal was in accordance with the provisions of the Turkish Code of Criminal Procedure and other related legislation and can in no way be linked to his position as the chairman of the Turkish Human Rights Association.